



U.S. Department of Justice

United States Attorney
Southern District of New York

86 Chambers Street
New York, New York 10007

November 21, 2013

By ECF

Hon. William H. Pauley, III
United States District Judge
United States Courthouse
500 Pearl Street
New York, NY 10007

Re: *ACLU et al. v. Clapper et al.*, 13 Civ. 3994 (WHP)

Dear Judge Pauley:

I write respectfully for two purposes in connection with this matter, in which motions to dismiss and for a preliminary injunction are scheduled to be argued this Friday, November 22.

First, defendants hereby notify the Court and all interested parties that the Government will be represented at tomorrow's argument by Stuart F. Delery, Assistant Attorney General for the Civil Division of the United States Department of Justice.

Second, defendants also write respectfully to inform the Court of two recently published judicial decisions that pertain to issues in the above-referenced matter. The first opinion is too large an electronic file to feasibly file on ECF, but is available at <http://www.dni.gov/files/documents/1118/CLEANEDPRTT%201.pdf>, and is annexed as Exhibit A to the printed version of this letter that we will submit to chambers. The opinion, whose date has been redacted, was declassified and made publicly available this Monday, November 18. It is a decision issued by the Hon. Colleen Kollar-Kotelly of the Foreign Intelligence Surveillance Court that authorized bulk collection of Internet metadata under 50 U.S.C. § 1842, and addressed a similar relevance issue to the one presented in this case. The opinion annexed as Exhibit B was issued on November 14, 2013, by the Hon. Jeffrey T. Miller of the United States District Court for the Southern District of California, and, in the course of denying a convicted criminal defendant's motion for a new trial, addressed the constitutionality under the Fourth Amendment of bulk telephony metadata collection pursuant to Section 215.

Thank you for your consideration of this matter.

Respectfully submitted,

PREET BHARARA
United States Attorney

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cc: Counsel for Plaintiffs (by ECF notification and email)